



STATE OF ARKANSAS

Department of Veterans Affairs

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Mike Huckabee
Governor

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PERSONNEL

ADVAP 2-1

October 6, 2004

Disciplinary Policies, Rules and Procedures

1. GENERAL: All employees have a right to know what can and cannot be done, their rights and privileges, and the consequences of unacceptable behavior.
2. PURPOSE: To transmit a new procedure pertaining to agency disciplinary policies, rules and procedures. This procedure is being furnished for each Supervisor. Copies of Section II (excerpt) pertaining to the class definitions and the specific rules and/or infractions and prescribed penalties are being distributed to each Agency employee.
3. PROCEDURE:
 - a. Supervisors will:
 - 1) Study and familiarize themselves with the contents of the Disciplinary Policies, Rules and Procedures.
 - 2) Discuss the disciplinary policies, rules and procedures with all employees and furnish each employee with a copy of Section II

(Attachment 2), the employee excerpt on Disciplinary Rules and Procedures.

- 3) Detach and retain the signed employee certification in the office employee file.

4. INFORMAL DOCUMENTATION, ATTACHMENT 3:

a. Supervisors will:

- 1) Ask themselves the questions on page 1 of Attachment 3 prior to recommending a disciplinary action.
- 2) Submit formal documentation with the recommendation for disciplinary action to the Arkansas Veterans Home Administrator, Arkansas Department of Veterans Affairs (ADVA) Management Project Analyst II (MPA II) (Chief, Field Services) and/or Deputy Director.

5. FORMAL DOCUMENTATION, ATTACHMENT 4:

a. Veterans Home Division:

- 1) The Supervisor will submit documentation of infraction to the Administrator.
- 2) The Administrator will review all documentation; investigate the incident or series of incidents and report findings to the ADVA Deputy Director.
- 3) The ADVA Deputy Director will review all documentation, investigate and make a written recommendation to the ADVA Director stating why a disciplinary memorandum is necessary.
- 4) The ADVA Director will cause the incident to be investigated and make a final determination. If the formal documentation is appropriate, the ADVA Deputy Director or Arkansas Veterans Home Administrator will prepare it.

b. Veterans Affairs Division:

- 1) The Supervisor will submit documentation of infraction to the ADVA Deputy Director.

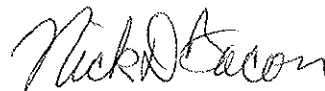
- 2) The ADVA Deputy Director will review all documentation, investigate and make a written recommendation to the ADVA Director stating why a disciplinary memorandum is necessary.
 - 3) The ADVA Director will cause the incident to be investigated and make a final determination. If the formal documentation is appropriate, the ADVA Director or his designee will prepare it.
- c. Arkansas State Veterans' Cemetery Division:
- 1) The Management Project Analyst II (MPA II)/Cemetery Director will submit documentation of infraction to the ADVA MPA II (Chief, Field Services).
 - 2) The ADVA MPA II (Chief, Field Services) will review all documentation; investigate the incident or series of incidents and report findings to the ADVA Deputy Director.
 - 3) The ADVA Deputy Director will review all documentation, investigate and make a written recommendation to the ADVA Director stating why a disciplinary memorandum is necessary.
 - 4) The ADVA Director will cause the incident to be investigated and make a final determination. If the formal documentation is appropriate, the ADVA Deputy Director or MPA II (Chief, Field Services) will prepare it.

6. INQUIRIES: Questions may be directed to the ADVA Management Project Analyst II (MPA II) (Personnel and Finance Manager) at 501-370-3820 through customary channels.

7. SUPERSESSSION: This procedure supersedes Disciplinary Rules and Procedures, Employee and Disciplinary Action Guidelines for Supervisors, June 16, 2000, in their entirety.

8. FORMS PRESCRIBED: ADVA Form 72 - Employee File Notes.

By:


NICK D. BACON
Director

Distribution:

- a. ADVAP 2-1 with Attachments: D, F, N.
- b. ADVAP 2-1 Attachment 2, Section II only: A.

SECTION I

DISCIPLINARY RULES AND PROCEDURES

INTRODUCTION

SUPERVISORS AND DISCIPLINE

We have a framework of policies, rules, and procedures, which enables all employees (management and staff) to work together in an orderly, systematic manner to achieve goals and to satisfy needs. Without order and system, operations become chaotic and inefficient.

The term "discipline" has three (3) interrelated factors:

- The organizational structure establishing the policies, rules and procedures.
- The Supervisors and employee's role in, and compliance with, the structure.
- The leadership process; setting examples, offering instruction, training, etc. that has a direct influence on the employee's compliance to the structure.

Fortunately, most people actually prefer to work in an environment that is orderly and based upon definite standards and effective leadership. Reasonable rules, which employees know and accept as necessary for the proper functioning of the unit, will tell them exactly where they stand. Employees then willingly follow the rules, policies, and procedures. Good discipline, however, requires that rules, procedures and policies be administered fairly and consistently. If any penalties are imposed for violation, the principle of "just cause" should exist. Just cause means that the penalty must be in line with the offense. Management must consider all circumstances related to the act and the punishment imposed should be completely in line with its gravity. When an employee breaks a rule, the Supervisor should consider the past record (total record), the explanation of why the rule was broken, and any other factors related to the situation before a decision is made on the extent of punishment to be imposed. Employees in a "good discipline" setting generally recognize that they are working for the "good of the group" as well as for their own well being; therefore, they avoid actions which may interfere with the rights, privileges, and duties of others in the group.

The Supervisor is the key person in the administration of good discipline. A well-disciplined and competitive workforce is a workforce with good morale.

The leadership responsibility of the Supervisor to build the morale of subordinates includes developing their initiative, creating a climate of cooperation, and helping each worker increase their skills and abilities.

It goes without saying that it is never easy to win the support and cooperation of all employees. There may be individuals who oppose Management no matter what. A Supervisor who wants to assure a job environment in which positive discipline is best protected needs to be fully aware of the reasons that cause discipline to break down. The keys necessary to avoid such a breakdown are:

- 1) An employee orientation program - includes proper training and a thorough understanding of the job.
- 2) A communication system - employees know and understand the rules and policies. (The Supervisor makes the rules and policies sensible guides for action(s) and not simply arbitrary decrees.)
- 3) Fair and consistent method - enforcing the rules and policies. Employees expect stability in leadership and the best way to attain this is to administer the rules equally to all.
- 4) A placement system - employees must be suited for the tasks or they will be unhappy.

"Discipline: is a basic supervisory responsibility. Skill and knowledge are required to establish optimum discipline in the work unit. A Supervisor must know how to deal with different kinds of people reacting in different ways to a variety of situations. "Discipline" may have three (3) meanings:

- 1) To motivate people through positive leadership training, counseling, and by setting good examples. Self-discipline is best. You can be most effective when your employees show a high degree of self-discipline in their job conduct.
- 2) To penalize in appropriate measure with the purposes of correcting a person's job behavior, and most importantly, develop that person into a satisfactory employee.

This corrective action should not contain "punishment", but rather, its sole purpose should be to make the person a better employee. Such actions often include oral warning while counseling the employee or a written reprimand.

- 3) When self-discipline fails and corrective action does not produce the corrective result, we have an intolerable situation and it may be necessary to take punitive measures such as suspension or discharge, to force correct job behavior.

In your job as a Supervisor, discipline is a day-to-day reality. However, you will not be able to do your overall job if you spend all your time on duty as a "watchdog". It is up to you to establish and maintain a climate in which employees want to participate as members of a disciplined work team. It is quite evident by the research available that most employees want to be part of a well-led productive work group. If Supervisors can develop a system of rewarding with praise by recognizing good performance and behavior, the work production and morale will be much greater.

Generally employees do not object to reasonable orders, rules and standards. They have a greater sense of direction when they are governed by practical regulations which they understand are in their own self-interest and which promote the welfare of the entire work unit, office or department.

Effective Supervisors seldom need to resort to formal disciplinary measures. They practice good supervision by thoroughly training and orienting new employees and most importantly, warding off the rise of disciplinary problems. It is also the practice of the effective Supervisor to nip possible disciplinary problems in the bud. Nonetheless, we all must recognize the need to take disciplinary action(s) when appropriate.

SUPPORT FOR DISCIPLINARY ACTION

You must make sure that management at all levels will support your disciplinary action. Briefly, these are the "tests" that must be met:

1) IS THE RULE REASONABLE?

To the best of our knowledge the agency's rules are reasonable and their observance is necessary for orderly and efficient completion of the business we have to conduct. The largest problem occurs in the application of the rules, whether agency or work unit rules. The methods used in applying the rules must also be reasonable. A Supervisor has a responsibility to inform his/her Supervisor if there is reason to believe that a rule is not reasonable.

2) DID THE EMPLOYEE HAVE THE OPPORTUNITY TO KNOW OF THE RULES?

The Supervisor has the ultimate responsibility to inform employees of all the rules/regulations to be complied with.

3) DID THE EMPLOYEE KNOW THE POSSIBLE PENALTIES FOR VIOLATING THE RULE?

Each employee must be informed of the consequences of not adhering to the rules/regulations.

4) **DID THE EMPLOYEE HAVE THE OPPORTUNITY TO EXPLAIN THE SITUATION?**

Always make sure that the employee's side of the story is heard before you take disciplinary action. Do not react to hearsay circumstantial/evidence.

5) **DID THE EMPLOYEE ACTUALLY VIOLATE THE RULE?**

Some offenses are clear, concise, and quite obvious. But others are not necessarily cut and dry. Thorough investigation must be completed, and your facts verified before any disciplinary action can be taken.

6) **IS THERE A "MATCH" OF THE PENALTY TO THE OFFENSE AND IS THE PENALTY FREE OF DISCRIMINATION?**

Be sure not to over react or under react when penalizing an employee. The penalty must match the infraction heavy enough to obtain constructive response from the employee, but not so severe as to cause a sense of unfair treatment. Fair minded judgment is required at all times.

7) **ARE THE RULES APPLIED EQUALLY AND CONSISTENTLY TO ALL EMPLOYEES, AND IS THE DISCIPLINE EQUAL AND CONSISTENT FOR ALL EMPLOYEES?**

All the rules must be designed and enforced in a manner so as to not discriminate against any employee or group of employees.

PROBLEMS IN ADMINISTERING DISCIPLINARY ACTIONS

Even though disciplinary actions are sometimes necessary, many people avoid taking such actions for a variety of reasons: from lack of knowledge of the rules to fear of formal grievances. Perhaps the most typical reason Supervisors avoid disciplining employees is the obvious dislike of an unpleasant experience. It becomes easy to excuse a delay by citing the lack of time to deal effectively with the problem. Have we ever used the "he knows better now, so it won't happen again" excuse? As a Supervisor, you are faced with these problems quite regularly. As a result, you, being only human, may try to avoid disciplining an employee. This is a natural reaction because administering disciplinary actions is one of the most difficult supervisory functions. Still failure to properly administer disciplinary actions can result in an implied acceptance or even approval of the offense. If this is permitted, problems may become more and more frequent and perhaps more severe. Discipline will become even more difficult to administer.

CLASSES OF OFFENSES, RULE INFRACTIONS, PENALTIES AND DOCUMENTATION

The following section provides a uniform set of general definitions and disciplinary rules under which most agency rule infractions and policy violations can be categorized, thereby, ensuring a high degree of consistency and uniformity in the manner in which agency disciplinary matters are handled.

The following listing of infractions and penalties is not represented as being "all inclusive". Obviously, every conceivable infraction or violation that could possibly occur cannot be committed to an exhaustive listing of infractions and pre-prescribed penalties. The following categorical grouping of offenses by class and the general definitions within each category should, however, provide a basic framework within which most, if not all, infractions can be appropriately dealt under the principle of fair-minded judgment in matching the penalty with the nature of the offense.

However, managerial and supervisory staff shall be held to a higher standard of conduct.

When these employees commit an offense identified under Class B Infractions, and of such magnitude that the employee's continued employment cannot be tolerated, termination can occur, without any progressive steps having been taken. Therefore, the Director reserves the right to exercise his prerogative in administering the severity of discipline where documented evidence of such objectionable conduct/behavior warrants deviation from the guidelines.

Also included in the following section are guidelines for maintaining proper and adequate documentation on disciplinary matters which is a critical and, perhaps, most important element of any disciplinary procedure.

REFERENCE:

FURTHER REFERENCE SHOULD BE MADE TO THE FOLLOWING POLICIES AND PROCEDURES IN ADMINISTERING DISCIPLINARY PROCEDURES:

- 1) ADVAP 2-11, Resignation/Termination, 2., d.
- 2) ADVAP 2-3, Time/Leave/Holidays, Attachment 1, 4.d.

SECTION II

DISCIPLINARY RULES AND PROCEDURES

CLASSES OF OFFENSES AND CLASS DEFINITIONS

CLASS A: Offenses of such seriousness as to warrant immediate dismissal as set forth in the attached listing of Class A Infractions.

General Definition: Willful or wanton violations of agency rules or policies which may adversely affect or disrupt the Agency's business or operations; **OR**

Willful violations of State or Federal laws which pertain to the operations or business interests of the Agency; **OR**

Fraudulent or dishonest act(s) involving any program or activity administered or supervised by the Agency or committed on Agency premises or property; **OR**

Willful acts, other than fraud and theft, which result in a loss to the Agency or in a loss or damage to agency property, equipment, or to Agency employees in the amount of fifty (\$50.00) dollars or more.

DISCIPLINARY

ACTION: Immediate dismissal.

CLASS B: Offenses of such seriousness as to warrant suspension as set forth in the attached listing of Class B infractions.

General Definition: Acts of insubordination, discourtesy, impropriety, or acts of gross negligence which may adversely affect or disrupt Agency business operations; **OR**

Willful acts which pose a threat to the safety or security of Agency property, equipment or employees or to the public while on Agency premises; **OR**

Other acts of misconduct, other than fraud and theft, which result in a loss of less than fifty (\$50.00) dollars.

DISCIPLINARY

ACTION: 1st Infraction = Suspension* and written warning.

2nd Infraction = Dismissal.

NOTE: Class B Offenses shall be cumulative for a five (5) year period and different infractions within the same class category shall attach and become cumulative from date of each such act.

CLASS C: Lesser offenses of such a nature as to warrant progressive disciplinary steps from oral and written warnings to suspension and dismissal as set forth in the attached listing of Class C infractions.

General Definition: Minor offenses of negligence, imprudence, or carelessness reflecting a disregard for, or constituting a violation of standard work rules, policies, or procedures, but which do not result in a loss or damage to property or persons, nor constitute a violation of rules or policies affecting the safety of agency property, equipment or employees.

DISCIPLINARY

ACTION: 1st Infraction = Oral warning and counseling.

2nd Infraction = Written Warning.

3rd Infraction = Final written warning.

4th Infraction = Suspension.*

5th Infraction = Dismissal.

NOTE: Class C offenses shall be cumulative on a revolving three-hundred-sixty-five (365) calendar day basis from date of each such infraction and different infractions within the same class category shall attach and become cumulative.

***NOTE:** Suspension means disciplinary suspension from work without pay for up to five (5) working days, except where temporary suspension with pay is invoked by a Supervisor pending investigation of an incident.

If the investigation indicates a disciplinary action is warranted, then the time during which the employee was suspended will constitute part of the assessed disciplinary suspension. The Agency Director or in his absence the Deputy Director are the only Agency personnel authorized to issue Disciplinary Leave Without Pay (LWOP). Supervisors may recommend to the Director.

ARKANSAS DEPARTMENT OF VETERANS AFFAIRS

DISCIPLINARY RULES AND PROCEDURES

CLASS A INFRACTIONS - PENALTY = IMMEDIATE DISMISSAL

1. **Leave and Attendance:** (See also Leave and Attendance, under Class B and Chronic Tardiness, under Class C).
 - a. Abandonment of Job. (Unauthorized absence for two (2) days, forty-eight (48) hours).
 - b. Fraudulently claiming sick leave.
 - c. Sleeping on the job. (Security Personnel, ADVAP 85-8).
2. **Fraud, Theft and Dishonesty¹:** (See also "Dishonesty and Breach of Trust" – under Class B infractions).
 - a. Charging personal long distance telephone calls to agency, including unauthorized use of WATTS lines, which result in charges or a monetary loss of fifty (\$50.00) dollars or more. (See Class B Acts of Dishonesty for charges of less than fifty (\$50.00) dollars.
 - b. Fraudulent claims for travel expenses. (See Class B Acts of Dishonesty for false claims of less than fifty (\$50.00) dollars.
 - c. Embezzling agency or resident funds.
 - d. Theft of Agency property regardless of where housed, stored or located, or property of others on premises.²
 - e. Misappropriation of Agency or resident funds.
 - f. Misrepresentation of a material fact(s), or making a false statement(s) in connection with employment/job application, work related activity, record, report, investigation or other Agency related activity or proceeding.
 - g. Any act resulting in cancellation or loss of bond coverage for the individual employee or any act, which would render an employee, a security risk.

¹All such acts also require restitution and may result in criminal charges.

²Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

CLASS A INFRACTIONS (Continued)

3. Assault and/or Battery:

- a. Assaulting another employee, resident or client.
- b. Fighting or creating a disturbance on the premises¹ or at any time or place while on official Agency business or duty status. (Does not preclude self-defense from unprovoked attack).

4. Conviction of a Felony Offense Under the Arkansas Criminal Code:

(Except for a conviction for a crime classified as a Class Y felony, the disciplinary action to be taken following a conviction for a non-work or non-agency related act will be at the discretion of the Agency Director).

5. Unauthorized or Illegal Possession or use of Weapons, Liquor, Drugs or Narcotics:

- a. Unauthorized possession of firearms or other weapons on premises.¹
- b. Use or possession of illegal drugs or narcotics on premises¹, or in an Agency vehicle, or at any place or location while on official Agency business or duty status.
- c. Use of intoxicating liquor on premises¹, in an Agency vehicle, or while in official duty status.

6. Violations of the Hatch Act or Governor's Policy Directive Regarding Political Activity:

- a. Candidate for elective office in a partisan election.
- b. Directly or indirectly coerce, command, assess, solicit, or otherwise persuade any employee to contribute anything of value to a party, committee, organization, agency or person for political purposes.

¹Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

²Can be subject to prosecution and loss of certification or license.

CLASS A INFRACTIONS (Continued)

- c. Engaging in partisan political activity of any type during work hours, or use of State or Agency property or equipment for such purposes, including display of bumper stickers, decals or other political advertising. (This prohibition also applies to personal vehicles when in use in the performance of official duties for which the employee will be reimbursed by the State or Agency.)
- d. Use of official authority or position to influence, or affect in any way, the result of an election or nomination for political office.

7. Abuse or neglect of a resident's rights or needs.¹

Directly or indirectly responsible for the abuse or neglect of a resident's rights or needs.

8. Other Class A Infractions:

Includes other willful acts of similar nature or seriousness not specified above which fall within the scope of a Class A offense or act as defined above. (See General Definitions)

CLASS B INFRACTIONS **1ST INFRACTION = SUSPENSION AND WRITTEN WARNING** **2ND INFRACTION = DISMISSAL**

1. Leave and Attendance and Related:

- a. Unauthorized absence from one (1) to fifteen (15) hours. (See Item 1(a) under Class A for unauthorized absence for two (2) days (forty-eight (48) hours.)
- b. Sleeping on the job.
- c. Failure or refusal without good cause to work overtime when scheduled or requested to do so under the following circumstances:
 - 1) The possibility of working overtime was a part of the terms of hire when the employee accepted the job or with the employee's knowledge has been made a condition of employment, or
 - 2) Emergency situations which arise and require the performance, outside normal work hours, of services of the type and nature which the employee is capable of performing in order to safeguard

Agency property, prevent hardship to persons served by the Agency, or to meet workload deadlines.

2. **Personal Conduct:**

- a. Reporting to work under influence of intoxicating liquor or drugs. (Also refer for Professional assistance and/or treatment.)
- b. Gambling on premises.¹
- c. Possession of intoxicating liquor on premises.¹
- d. Use of insulting, abusive, obscene, profane or other offensive language directed to one's Supervisor, another employee, resident, client, or a member of the general public.
- e. Racial, sexual or religious harassment.
- f. Intentional interference, hindrance, delay or other willful act designed to impede, delay, or block the filing, processing and/or resolution of an employee grievance under the Agency's Grievance Procedure.

¹Refers to physical structures housing the places of business and the grounds of the Department/Agency.

CLASS B INFRACTIONS (Continued)

- g. Retaliation, discrimination or reprisal against an Agency employee because he/she has filed a complaint or grievance under the Agency's Grievance Procedure, or for having provided information in connection with or participation in any Agency hearing, investigation or other official Agency proceeding.
- h. Discourteous treatment of a client, resident or a member of the general public.
- i. Insubordination. (Refusal to obey a reasonable order or directive issued within one's chain of command.)
- j. Engaging in activity constituting a conflict of interest or an impropriety as an Agency employee, representative or Agent.
- k. Endangering safety or welfare of employees, residents or Agency property.
- l. Failure to report an accident involving Agency vehicle, property or equipment or resulting in personal injury or damage.

- m. Use of Agency time, property or equipment for conduct of personal business, or engaged in other unauthorized or prohibited activity.
3. **Acts of Dishonesty or Breach of Trust**¹ which result in a loss of less than fifty (\$50.00) dollars or which violates security policies (exclusive of acts of fraud and theft as defined under Class A offenses for which no minimum monetary loss is specified.)
- a. Unauthorized or personal use of Agency credit cards, vehicles or other Agency property or equipment, including the operations of an Agency vehicle without a valid driver's license.
 - b. False or improper claims for travel reimbursement resulting in a monetary loss of less than fifty (\$50.00) dollars.
 - c. Failure to properly safeguard² Agency credit cards, keys, pass words, access to restricted areas or confidential information, or other security breaches which result in a loss or pose a threat to the safety or security of Agency property, equipment, records, employees, residents or clients.

¹ All such acts also require restitution and may also result in criminal charges.

²Refers to gross negligence reflecting a reckless disregard for the Agency's interest.

CLASS B INFRACTIONS (Continued)

- d. Charging personal long distance calls to Agency, residents, which result in charges or a monetary loss of less than fifty (\$50.00) dollars.
4. **Violation of Internal Rules:**
- a. Loaning money or selling any item to Veterans Home residents.
 - b. Borrowing money or purchasing any property/items from Veterans Home residents.
 - c. Having personal relationships with Veterans Home residents or clients.
 - d. Assisting Veterans Home residents after duty hours without proper authority.
 - e. Changing or altering established procedures or documents, or removing official documents from work area without proper approval or authorization.

- f. Obtaining information or data through computer terminal, or by other means, for any purpose other than for the conduct of official Agency business.
- g. Discussing or disclosing personal or confidential information contained in Agency files for other than official purposes or the conduct of official Agency business.
- h. Removal of property or equipment from work place without prior authorization.
- i. Charging long distance personal telephone calls to the Agency - such charges of \$50.00 or more constitute a Class "A" offense. Charges of less than \$50.00 constitute a Class "B" offense.

5. **Other Class B Infractions:**

Includes other willful acts of a similar nature or "moderate seriousness" not specified above which fall within the scope of a Class B offense or act as defined above. (See General Definitions.)

CLASS C INFRACTIONS:

1st INFRACTION	2nd INFRACTION	3rd INFRACTION	4th INFRACTION	5th INFRACTION
Oral Warning and Counseling	Written Warning	Final Written Warning	Suspension	Dismissal

1. Chronic tardiness.¹
2. Excessive personal use of Agency telephones.²
3. Parking in "reserved" parking spaces including fire and traffic lanes.
4. Interfering with another employee's job performance.
5. Unauthorized absence of less than one (1) hour, including overstaying of lunch and coffee breaks.³
6. Use of insulting, abusive, obscene, profane or other offensive language in the presence of the general public or other Agency employees. (See personal conduct under Class B Infractions where such is directed to specific person or persons.)
7. Careless acts.

Other Class C Infractions:

Includes all other minor infractions of a similar nature not specified above which fall within the scope of a Class C act or infraction as defined above. (See General Definitions)

¹Refers to unexcused tardiness (without good cause). "Chronic" is defined as being late or tardy three (3) times or more within any consecutive thirty (30) day period or six (6) times within a six (6) month period or eight (8) times within a given twelve (12) month period. Leave-Without-Pay (LWOP) shall be assessed, on an hourly basis, for each "unexcused" tardiness of fifteen (15) minutes or more. Annual leave or LWOP shall be used in cases of excused tardiness as appropriate.

²Excessive is defined as more than three (3) calls in one (1) workday, or any personal calls in excess of three (3) minutes.

³Refers to fifteen (15) minute break in a.m. and in p.m. and thirty (30) minute lunch period unless otherwise specified by Supervisor.

SECTION II

DISCIPLINARY RULES AND PROCEDURES

CLASSES OF OFFENSES AND CLASS DEFINITIONS

CLASS A: Offenses of such seriousness as to warrant immediate dismissal as set forth in the attached listing of Class A Infractions.

General Definition: Willful or wanton violations of agency rules or policies which may adversely affect or disrupt the Agency's business or operations; **OR**

Willful violations of State or Federal laws which pertain to the operations or business interests of the Agency; **OR**

Fraudulent or dishonest act(s) involving any program or activity administered or supervised by the Agency or committed on Agency premises or property; **OR**

Willful acts, other than fraud and theft, which result in a loss to the Agency or in a loss or damage to agency property, equipment, or to Agency employees in the amount of fifty (\$50.00) dollars or more.

DISCIPLINARY

ACTION: Immediate dismissal.

CLASS B: Offenses of such seriousness as to warrant suspension as set forth in the attached listing of Class B infractions.

General Definition: Acts of insubordination, discourtesy, impropriety, or acts of gross negligence which may adversely affect or disrupt Agency business operations; **OR**

Willful acts which pose a threat to the safety or security of Agency property, equipment or employees or to the public while on Agency premises; **OR**

Other acts of misconduct, other than fraud and theft, which result in a loss of less than fifty (\$50.00) dollars.

DISCIPLINARY

ACTION: 1st Infraction = Suspension* and written warning.

2nd Infraction = Dismissal.

NOTE: Class B Offenses shall be cumulative for a five (5) year period and different infractions within the same class category shall attach and become cumulative from date of each such act.

CLASS C: Lesser offenses of such a nature as to warrant progressive disciplinary steps from oral and written warnings to suspension and dismissal as set forth in the attached listing of Class C infractions.

General Definition: Minor offenses of negligence, imprudence, or carelessness reflecting a disregard for, or constituting a violation of standard work rules, policies, or procedures, but which do not result in a loss or damage to property or persons, nor constitute a violation of rules or policies affecting the safety of agency property, equipment or employees.

DISCIPLINARY

ACTION: 1st Infraction = Oral warning and counseling.

2nd Infraction = Written Warning.

3rd Infraction = Final written warning.

4th Infraction = Suspension.*

5th Infraction = Dismissal.

NOTE: Class C offenses shall be cumulative on a revolving three-hundred-sixty-five (365) calendar day basis from date of each such infraction and different infractions within the same class category shall attach and become cumulative.

***NOTE:** Suspension means disciplinary suspension from work without pay for up to five (5) working days, except where temporary suspension with pay is invoked by a Supervisor pending investigation of an incident.

If the investigation indicates a disciplinary action is warranted, then the time during which the employee was suspended will constitute part of the assessed disciplinary suspension. The Agency Director or in his absence the Deputy Director are the only Agency personnel authorized to issue Disciplinary Leave Without Pay (LWOP). Supervisors may recommend to the Director.

ARKANSAS DEPARTMENT OF VETERANS AFFAIRS

DISCIPLINARY RULES AND PROCEDURES

CLASS A INFRACTIONS - PENALTY = IMMEDIATE DISMISSAL

1. **Leave and Attendance:** (See also Leave and Attendance, under Class B and Chronic Tardiness, under Class C).
 - a. Abandonment of Job. (Unauthorized absence for two (2) days, forty-eight (48) hours).
 - b. Fraudulently claiming sick leave.
 - c. Sleeping on the job. (Security Personnel, ADVAP 85-8).
2. **Fraud, Theft and Dishonesty¹:** (See also "Dishonesty and Breach of Trust" – under Class B infractions).
 - a. Charging personal long distance telephone calls to agency, including unauthorized use of WATTS lines, which result in charges or a monetary loss of fifty (\$50.00) dollars or more. (See Class B Acts of Dishonesty for charges of less than fifty (\$50.00) dollars.
 - b. Fraudulent claims for travel expenses. (See Class B Acts of Dishonesty for false claims of less than fifty (\$50.00) dollars.
 - c. Embezzling agency or resident funds.
 - d. Theft of Agency property regardless of where housed, stored or located, or property of others on premises.²
 - e. Misappropriation of Agency or resident funds.
 - f. Misrepresentation of a material fact(s), or making a false statement(s) in connection with employment/job application, work related activity, record, report, investigation or other Agency related activity or proceeding.
 - g. Any act resulting in cancellation or loss of bond coverage for the individual employee or any act, which would render an employee, a security risk.

¹All such acts also require restitution and may result in criminal charges.

²Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

CLASS A INFRACTIONS (Continued)

3. Assault and/or Battery:

- a. Assaulting another employee, resident or client.
- b. Fighting or creating a disturbance on the premises¹ or at any time or place while on official Agency business or duty status. (Does not preclude self-defense from unprovoked attack).

4. Conviction of a Felony Offense Under the Arkansas Criminal Code:

(Except for a conviction for a crime classified as a Class Y felony, the disciplinary action to be taken following a conviction for a non-work or non-agency related act will be at the discretion of the Agency Director).

5. Unauthorized or Illegal Possession or use of Weapons, Liquor, Drugs or Narcotics:

- a. Unauthorized possession of firearms or other weapons on premises.¹
- b. Use or possession of illegal drugs or narcotics on premises¹, or in an Agency vehicle, or at any place or location while on official Agency business or duty status.
- c. Use of intoxicating liquor on premises¹, in an Agency vehicle, or while in official duty status.

6. Violations of the Hatch Act or Governor's Policy Directive Regarding Political Activity:

- a. Candidate for elective office in a partisan election.
- b. Directly or indirectly coerce, command, assess, solicit, or otherwise persuade any employee to contribute anything of value to a party, committee, organization, agency or person for political purposes.

¹Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

²Can be subject to prosecution and loss of certification or license.

CLASS A INFRACTIONS (Continued)

- c. Engaging in partisan political activity of any type during work hours, or use of State or Agency property or equipment for such purposes, including display of bumper stickers, decals or other political advertising. (This prohibition also applies to personal vehicles when in use in the performance of official duties for which the employee will be reimbursed by the State or Agency.)
- d. Use of official authority or position to influence, or affect in any way, the result of an election or nomination for political office.

7. Abuse or neglect of a resident's rights or needs.¹

Directly or indirectly responsible for the abuse or neglect of a resident's rights or needs.

8. Other Class A Infractions:

Includes other willful acts of similar nature or seriousness not specified above which fall within the scope of a Class A offense or act as defined above. (See General Definitions)

CLASS B INFRACTIONS **1ST INFRACTION = SUSPENSION AND WRITTEN WARNING** **2ND INFRACTION = DISMISSAL**

1. Leave and Attendance and Related:

- a. Unauthorized absence from one (1) to fifteen (15) hours. (See Item 1(a) under Class A for unauthorized absence for two (2) days (forty-eight (48) hours.)
- b. Sleeping on the job.
- c. Failure or refusal without good cause to work overtime when scheduled or requested to do so under the following circumstances:
 - 1) The possibility of working overtime was a part of the terms of hire when the employee accepted the job or with the employee's knowledge has been made a condition of employment, or
 - 2) Emergency situations which arise and require the performance, outside normal work hours, of services of the type and nature which the employee is capable of performing in order to safeguard

Agency property, prevent hardship to persons served by the Agency, or to meet workload deadlines.

2. **Personal Conduct:**

- a. Reporting to work under influence of intoxicating liquor or drugs. (Also refer for Professional assistance and/or treatment.)
- b. Gambling on premises.¹
- c. Possession of intoxicating liquor on premises.¹
- d. Use of insulting, abusive, obscene, profane or other offensive language directed to one's Supervisor, another employee, resident, client, or a member of the general public.
- e. Racial, sexual or religious harassment.
- f. Intentional interference, hindrance, delay or other willful act designed to impede, delay, or block the filing, processing and/or resolution of an employee grievance under the Agency's Grievance Procedure.

¹Refers to physical structures housing the places of business and the grounds of the Department/Agency.

CLASS B INFRACTIONS (Continued)

- g. Retaliation, discrimination or reprisal against an Agency employee because he/she has filed a complaint or grievance under the Agency's Grievance Procedure, or for having provided information in connection with or participation in any Agency hearing, investigation or other official Agency proceeding.
- h. Discourteous treatment of a client, resident or a member of the general public.
- i. Insubordination. (Refusal to obey a reasonable order or directive issued within one's chain of command.)
- j. Engaging in activity constituting a conflict of interest or an impropriety as an Agency employee, representative or Agent.
- k. Endangering safety or welfare of employees, residents or Agency property.
- l. Failure to report an accident involving Agency vehicle, property or equipment or resulting in personal injury or damage.

- m. Use of Agency time, property or equipment for conduct of personal business, or engaged in other unauthorized or prohibited activity.
3. **Acts of Dishonesty or Breach of Trust**¹ which result in a loss of less than fifty (\$50.00) dollars or which violates security policies (exclusive of acts of fraud and theft as defined under Class A offenses for which no minimum monetary loss is specified.)
- a. Unauthorized or personal use of Agency credit cards, vehicles or other Agency property or equipment, including the operations of an Agency vehicle without a valid driver's license.
 - b. False or improper claims for travel reimbursement resulting in a monetary loss of less than fifty (\$50.00) dollars.
 - c. Failure to properly safeguard² Agency credit cards, keys, pass words, access to restricted areas or confidential information, or other security breaches which result in a loss or pose a threat to the safety or security of Agency property, equipment, records, employees, residents or clients.

¹ All such acts also require restitution and may also result in criminal charges.

²Refers to gross negligence reflecting a reckless disregard for the Agency's interest.

CLASS B INFRACTIONS (Continued)

- d. Charging personal long distance calls to Agency, residents, which result in charges or a monetary loss of less than fifty (\$50.00) dollars.
4. **Violation of Internal Rules:**
- a. Loaning money or selling any item to Veterans Home residents.
 - b. Borrowing money or purchasing any property/items from Veterans Home residents.
 - c. Having personal relationships with Veterans Home residents or clients.
 - d. Assisting Veterans Home residents after duty hours without proper authority.
 - e. Changing or altering established procedures or documents, or removing official documents from work area without proper approval or authorization.

- f. Obtaining information or data through computer terminal, or by other means, for any purpose other than for the conduct of official Agency business.
- g. Discussing or disclosing personal or confidential information contained in Agency files for other than official purposes or the conduct of official Agency business.
- h. Removal of property or equipment from work place without prior authorization.
- i. Charging long distance personal telephone calls to the Agency - such charges of \$50.00 or more constitute a Class "A" offense. Charges of less than \$50.00 constitute a Class "B" offense.

5. **Other Class B Infractions:**

Includes other willful acts of a similar nature or "moderate seriousness" not specified above which fall within the scope of a Class B offense or act as defined above. (See General Definitions.)

CLASS C INFRACTIONS:

1st INFRACTION	2nd INFRACTION	3rd INFRACTION	4th INFRACTION	5th INFRACTION
Oral Warning and Counseling	Written Warning	Final Written Warning	Suspension	Dismissal

1. Chronic tardiness.¹
2. Excessive personal use of Agency telephones.²
3. Parking in "reserved" parking spaces including fire and traffic lanes.
4. Interfering with another employee's job performance.
5. Unauthorized absence of less than one (1) hour, including overstaying of lunch and coffee breaks.³
6. Use of insulting, abusive, obscene, profane or other offensive language in the presence of the general public or other Agency employees. (See personal conduct under Class B Infractions where such is directed to specific person or persons.)
7. Careless acts.

Other Class C Infractions:

Includes all other minor infractions of a similar nature not specified above which fall within the scope of a Class C act or infraction as defined above. (See General Definitions)

¹Refers to unexcused tardiness (without good cause). "Chronic" is defined as being late or tardy three (3) times or more within any consecutive thirty (30) day period or six (6) times within a six (6) month period or eight (8) times within a given twelve (12) month period. Leave-Without-Pay (LWOP) shall be assessed, on an hourly basis, for each "unexcused" tardiness of fifteen (15) minutes or more. Annual leave or LWOP shall be used in cases of excused tardiness as appropriate.

²Excessive is defined as more than three (3) calls in one (1) workday, or any personal calls in excess of three (3) minutes.

³Refers to fifteen (15) minute break in a.m. and in p.m. and thirty (30) minute lunch period unless otherwise specified by Supervisor.

PRIOR TO DISCIPLINARY ACTION

(CHECK LIST)

ASK YOURSELF -

- Do I have all the facts? Was there a thorough investigation of the incident?
- Do I have direct evidence (facts) or am I basically dealing with others' opinions?
- What other people are involved, directly or indirectly? Are there eyewitnesses?
- Am I certain I have the complete picture of what happened?
- Have I talked to the employee in private?
- Did I give the employee a fair chance to present his/her side of the situation?
- What is the employee's overall record - Is there a record of previous infractions of a similar nature? Record of steps, or actions taken?
- Are similar records or files kept and similar steps taken to correct the behavior or improper actions of all employees on a consistent basis?
- To what extent was the employee familiar with the rules and regulations? Should the employee have been expected to know? Was the rule posted, published or otherwise made available to the employee?
- Did the employee have fair warning of the possible consequences of the action?
- Are there any unusual circumstances that must be considered in this case?
- To what extent has this rule been enforced in the past?
- Is the action I am considering consistent with that applied in prior situations?
- Is the action appropriate?
- What impact might the action have?
- Am I handling this in a fair and impartial way?
- Am I prepared to explain what my action is necessary?
- Will the action prevent a recurrence of the employee's behavior in the future?

DOCUMENTATION

GENERAL GUIDELINES FOR EMPLOYEE FILES

1. Do not wait for problems to develop. Documentation should be an on-going practice.
2. Document the performance of all employees. Do not keep records on just women and minorities.
3. Avoid "building a file" in order to terminate/discipline an employee.
4. Documentation should be objective, factual, specific and behavioral.
5. Avoid references to an employee's character, personal values, appearance, personal taste or attitude.
6. Avoid including your own "opinion" in the documentation.
7. Documentation should accurately reflect the events being documented.
8. Document both good and bad performance and/or work related behavior.
9. Support all documentation with specific examples or samples of work.
10. Documentation should be consistent.
11. Document occurrences in a timely manner.
12. Make file accessible, but confidential (accessible to only the employee and possibly your supervisor).
13. Review entire file or record prior to taking disciplinary action.
14. Remember, the real purpose of documentation is to provide back-up information to support your personnel actions.

(A sample copy of an "Employee File Notes" form, which is recommended for informal documentation purposes, follows this page.)

EMPLOYEE FILE NOTES	
(COUNSELING - INCIDENT - PERFORMANCE NOTES)	
Supervisor's Name	Employee's Name
Describe the Activity Observed and/or Discussed:	Date:
Supervisor's Signature	Employee's Signature*
* Employee's signature signifies discussion and knowledge of content only. (Employee files should be maintained on ALL employees.)	

FORMAL DOCUMENTATION

Formal documentation begins when a particular incident or series of incidents progress to the point that the facts should become part of an official personnel record.

Good documentation is a clarification of all events and should include the following:

1. **Salutation** - the memo should always be addressed to the employee, not "the file". Personnel should be copied.
2. **Date of Incident(s).**
3. **The Problem** - What specifically occurred? If the employee's view differs from yours, include it.
4. **Implications** - What happens as a result of the employee's behavior?
5. **Prior Record** - only in occurrences of similar behavior. Have they done this before?
6. **Prior Conversations** - about the issue described as "the problem." Specifics on improvement or lack of improvement after these conversations should be noted.
7. **Expected Solutions** - Be specific on what you and the employee have agreed upon as the course of action. Include time frames, etc.
8. **Disciplinary Action** - A specific statement of your immediate and future disciplinary measures.
9. **Consequences** - Exactly what will happen if the "expected solutions" do not occur?
10. **Follow-up** - If any kind of future meeting is scheduled on this problem it should be included.

THE DISCIPLINARY

MEMORANDUM OR WRITTEN WARNING

The mistakes more commonly made in writing disciplinary materials are:

1. Lack of clear, direct, relevant communications from the supervisor to the employee;
2. Reliance on general statements instead of specific factual detail; and
3. Reliance on conclusions without laying a factual foundation.

A disciplinary memorandum is written as a result of an employee's misconduct or deficient performance. The purpose of the memorandum is to put the employee clearly on notice that the conduct in question is unacceptable and to document the specific act or omission. These memoranda form an important foundation for disciplinary action such as dismissal. Because of its importance in any appeal from disciplinary action, the memorandum will come under very close scrutiny in an appeal or grievance process. Unfortunately, few Supervisors or managers have been trained to write a disciplinary memorandum that can withstand the assault of a skilled Attorney representing the employee.

Most employees will break a rule or commit an infraction from time to time. The manager or Supervisor should not overlook this, but it may not warrant a disciplinary memorandum. In many instances, the employee should receive counseling or an oral correction or warning to modify behavior. The date and nature of the discussion should be noted as an employee "file note" and retained in the Supervisor's working file. In this way the information can be recalled as detailed background information if problems with the employee continue.

The decision to write a disciplinary memorandum is sometimes subjective. A good Manager/Supervisor does not write up every minor infraction or mistake. Such a policy breeds poor morale and will alienate the good productive employee. A disciplinary memorandum placed in an employee's personnel file is a significant action that should not be entered into without considerable thought. As a general rule, a disciplinary memorandum must cover serious misconduct or repeated infractions. The written disciplinary procedures and guidelines indicate the point at which official written disciplinary warnings and notices are required in addition to the "file notes" maintained by the Supervisor.

The disciplinary memorandum should be neat, errorless and typed on a letter-size sheet of paper (8 ½ x 11"). Handwritten memos on half-sheets of paper lack an official appearance, and tend to be illegible and often do not reproduce well for use at a disciplinary proceeding. It should be double-checked for misspelled words, punctuation

and grammar. At a hearing, such minor errors often become the focus of attention while the substance of the memorandum is lost. A standardized format will add to the overall appearance of disciplinary memoranda when pulled together as part of the employer's disciplinary file.

The use of "Inter-Office Communications" memorandum forms have an added advantage in that they clearly show 1) who it is directed to, 2) who prepared it, 3) the date prepared, and 4) the subject. It is not unusual to have disciplinary memorandums offered as evidence with simple elements missing, such as the date prepared or the name of the employee to whom it is directed. This information must be clearly set forth in any disciplinary memorandum. Failure to do so detracts from its value as evidence and could result in the hearing officer excluding the document from the record.

In writing the body of the memorandum the Manager/Supervisor must address the following questions:

1. **When Did It Happen?** The disciplinary memorandum must indicate when the act or omission occurred. Dates are very important. Time is often a critical factor. Without the time, a question could be raised at a hearing months or even years later concerning whether or not the incident occurred during the employee's lunch period or other non-duty time.
2. **Where Did the Incident Occur?** The place is oftentimes a critical element which must be set forth in the written disciplinary action. The place of the infraction is an important detail because it answers the question of whether the infraction occurred at the work site or workstation or off the premises.
3. **What Happened?** A specific narrative of what happened or a description of the incident must be set forth in detail. In the case of an incident of "sleeping on the job", details such as the distance the observer was located from the "Sleeper" and the total length of time the observation took place should be included. These details satisfy questions such as: Did the observation of the sleeping condition take place over four (4) seconds or four (4) minutes? Could the "Sleeper" have been just resting his eyes? Such questions must be answered in the memorandum. What happened in full and specific detail must be answered.
4. **What is Wrong?** Even though it may seem obvious, the disciplinary memorandum must give the employee notice of his/her infractions or deficiencies. Oftentimes this includes a reference to a rule, policy or contract provision that has been violated as a result of the employee's conduct. The rule of policy violated should be cited or a copy attached. If there have been previous infractions which have been brought to the employees attention, this fact should be included. Once the employee is

specifically advised of his/her shortcomings he/she cannot successfully claim lack of fair notice at a subsequent disciplinary hearing.

5. **What Must Be Done?** The employee must be given direction as to proper conduct or performance that will be required in the future as well as the consequences of the present and future violations or infractions. Such directives must be clear and leave no room for interpretation on the part of the employee. Permissive terms such as "request", "hope", "ask", etc., have no place in a written disciplinary action. The "What Must Be Done" must be clearly written as a directive and not as a request.

Each memorandum should conclude with a statement about placement of the disciplinary memorandum in the personnel file and a space for the employee to sign that he/she has read and understands the disciplinary memorandum. The employee should also be afforded the opportunity to offer or attach any comments he/she wishes to make. Most experts recommend that all such documents be signed by the employee to establish a clear record that the employee received a copy. The major problem with this is that an employee may refuse to sign the document. In such cases the Supervisor should write on the document "employee refused to sign" then date and initial the comment.

The disciplinary memorandum should be clearly written, specific, direct and to the point. Indirect or subtle comments run the risk of being misunderstood. Even if not misunderstood, the basis for a defense will arise when there is any room for interpretation. The well-written memorandum will be self-explanatory, standing on its own without additional explanation. The problem and what the Manager or Supervisor is doing in response will be clear by simply reading the memorandum.

**ARKANSAS DEPARTMENT OF VETERANS AFFAIRS
MEMORANDUM
(DISCIPLINARY - FOR OFFICIAL RECORD)**

TO: (Should always be addressed to the employee)
FROM: (Name, Title, Location of initiating supervisor or manager)
DATE: (Currently dated)
SUBJ: (Written warning/reprimand for specific infraction or rule violation)

1. **What Happened?** (A specific narrative of what happened must be set forth in detail.)
2. **When Did it Happen?** (The exact date and time the infraction occurred should be stated.)
3. **Where Did It Occur?** (The place of the infraction is an important detail which should always be included.)
4. **What Is Wrong?** (The specific rule, policy, procedure violated, or other deficiency in the employee's conduct must be cited to ensure fair notice to the employee.)
5. **What Must Be Done?** (The expected conduct or performance required in the future must be clearly stated as a directive and not as a request.)
6. **Consequences?** (The consequences of the present as well as future infractions should be clearly stated.)
7. **Acknowledgment -** The memorandum should contain a statement and space for the employee to acknowledge receipt and understanding of the written warning as follows:

"I have read and understand the above disciplinary warning and have been given an opportunity to attach my comments as a part of the record."

Employee signature

Date

(If the employee refuses to sign, indicate such, date and initial.)

Distribution: Signed copy to other Management Levels as appropriate.
Signed copy to Central Office Personnel Records.

ARKANSAS DEPARTMENT OF VETERANS AFFAIRS

DISCIPLINARY RULES AND PROCEDURES

To ADVA Employees:

The personal conduct of all Agency employees is a major factor in the proper and efficient delivery of ADVA services to all veterans, their dependents, and survivors, plus the Veterans Home residents, and in maintaining a good working environment. Likewise, fair and equitably administered disciplinary practices is a significant factor in the moral and productivity of Agency employees. Most employees perform their duties in a professional and efficient manner as well as conduct themselves in a manner which reflects credit upon themselves and the Agency. Unfortunately, however, some employees resort to unacceptable behavior requiring that disciplinary action be taken. It is for this reason that written disciplinary rules and procedures are necessary in order to ensure that fair and impartial disciplinary action is taken on a consistent and nondiscriminatory basis when willful and inexcusable breaches of Agency rules, policies and procedures occur.

All employees have a right to know what can and cannot be done, their rights and privileges, and the consequences of unacceptable behavior and rule violations.

It is the purpose of the attached document to furnish you with relevant information concerning Agency disciplinary rules and procedures and the consequences of willful infractions and/or violations. You should familiarize yourself with these rules and procedures and discuss any questions you may have with your Supervisor.

NICK D. BACON
Director

(DETACH THIS PORTION AFTER EMPLOYEE DISCUSSION AND
SIGNATURE AND RETAIN IN OFFICE EMPLOYEE FILE.)

The Agency Disciplinary Policy, Rules and Procedures have been discussed with me by my Supervisor and I have been given an opportunity to ask any questions I may have. I have also been furnished a copy of the disciplinary rules for my personal reference.

Employee Signature

Date